

IH-32

Rev: 2014-1

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

ATG Capital LLC, Four Kids Investment Fund
LLC, GRQ Consultants Inc. Roth 401K FBO Barry
Honig, Barry Honig, Jonathan Honig, Melechdavid
Inc., and Stetson Capital Management LLC,

Plaintiff

Case Number

vs.

1:17-cv-2440-AJN

MGT Capital Investments, Inc., John
McAfee, Robert Ladd, Nolan Bushnell, H.
Robert Holmes, and Michael Onghai

Defendant

Full Caption of Earlier Filed Case:

(Including in bankruptcy appeals the relevant adversary proceeding)

John Exley, individually and on behalf of all
others similarly situated,

Plaintiff

Case Number

vs.

1:16-cv-7415-NRB

MGT Capital Investments, Inc. and Robert
B. Ladd

Defendant

IH-32

Rev: 2014-1

Status of Earlier Filed Case:

☐

Closed

(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

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Open

(If so, set forth procedural status and summarize any court rulings.)

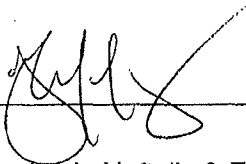
Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

In September 2016, three putative securities class actions (Exley v. MGT Capital Investments, Inc., et al., No. 1:16-cv-07415-NRB; Karner v. MGT Capital Investments, Inc., et al., No. 1:16-cv-07423-NRB; and Mayer v. MGT Capital Investments, Inc., et al., No. 1:16-cv-07449-NRB) were filed in this District and ultimately assigned to Judge Buchwald, before whom motions to consolidate those cases and appoint a lead plaintiff are pending. At the core of those securities suits are factual allegations relating to Defendant MGT's unsuccessful attempt to acquire two technology companies (D-Vasive, Inc. and Demonsaw LLC) in 2016. The newly filed case ("ATG Capital"), which was assigned to Judge Nathan, asserts breach of contract claims relating to the very same acquisition attempts by MGT.

Both the earlier filed securities cases and the breach of contract case raise factual and legal issues relating to the same potential deals. If these cases proceed beyond the pleading stage, they will involve substantially overlapping discovery, implicate the testimony of the many common witnesses, and raise many similar legal issues (for example, whether the deals failed to close due to some alleged failure by MGT or due to circumstances outside of MGT's control).

Accordingly, Defendants respectfully submit that the newly filed ATG Capital case and the earlier filed securities class actions are "related" within the meaning of Local Civil Rule 1.6(a) and that referring those cases to the same Judge will achieve the Court's objective to "avoid unnecessary duplication of judicial effort."

Signature: _____


Date: April 6, 2017

Firm: _____

Kramer Levin Naftalis & Frankel LLP